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IMMEDIATE

No. 14/6/2016-Public
Government of India/Bharat Sarkar
Ministry of Home Affairs/Grih Mantralaya
Public Section

North Block, New Delhi-1
Dated the 21st December, 2016

22 DEC 2016

To,

The Chief Secretaries of all State Governments,
The Chief Secretaries/Administrators of all Union Territories.
The Directors General of Police of State Governments /Union Territories

Subject:- Orders relating to the National Anthem of India.

Sir/Madam,

In continuation of this Ministry's letter of even No. dated 06.12.2016, I am directed to state that the Hon'ble Supreme Court in its Order dated 09.12.2016 in the Writ Petition Civil No. 855 of 2016 (copy enclosed) has directed as follows:-

"..., learned Attorney General for India submitted that how the physically challenged or physically handicapped persons shall show respect to the National Anthem, the Central Government will issue guidelines within ten days hence. If the guidelines are going to be issued, we clarify, if a physically challenged person or physically handicapped persons goes to the Cinema hall to watch a film, he need not stand up, if he is incapable to stand, but must show such conduct which is commensurate with respect for the National Anthem. When we say physically challenged or physically handicapped persons, it means persons with disability as defined under Sections 2(i) and 2 (t) of the Persons with Disabilities (Equal Opportunities, Protection of Rights and Full Participation) Act, 1995...."

Accordingly, the following guidelines are prescribed in this regard:

(i) The persons with locomotor disabilities and other wheel chair users having affected lower limbs shall position himself / herself to the extent of maximum attentiveness and alertness with or without the help of appropriate aids and appliances. For example a wheel chair bound person with disability shall make the wheel chair static, position himself / herself maintaining the maximum possible alertness physically.

- (ii) If the person with disability is on crutch, he / she shall become stable (non-mobile) to the extent of maximum alertness.
- (iii) The person with hearing disability (deaf or hard of hearing) if capable to stand, shall stand with attentiveness. However, there must be appropriate indication on the screen that the National Anthem is being played or sung as the persons with hearing disability are likely to miss the auditory cues. Suitable instructions may be given in the form of captioning as well as in sign language on the screen so that the persons with hearing impairment are well informed that the National Anthem is being played.
- (iv) The persons with blindness and low vision shall stand up in respect to National Anthem.
- (v) The escorts of the persons with disabilities shall stand-up when National Anthem is played.

3. Further in case of persons with intellectual disabilities (mental retardation), it is stated that such disability is associated with a condition of arrested or incomplete development of mind, especially characterized by impairment of skills manifested during developmental period, skills which contribute to the overall level of intelligence - cognitive, language, motor and social abilities. Mental retardation is a challenging-problem, a multi-dimensional phenomenon, involving bio-psycho-social factors. The following characteristics may hamper in showing respect to the National Anthem by these class of persons with disabilities:-

- (a) Lack of understanding and comprehension.
- (b) Associated conditions like epilepsy, Attention Deficit, Hyperactive Disorder, Sensor impairments, Psychiatric illness, motor problems etc.
- (c) Most of them will have behavioral problems like flapping of the hands, screaming, shouting, abnormal body movements, difficulty in performing practical task etc.

3.1. While the persons with mild intellectual disability without associated conditions can be trained to understand and respect National Anthem, the same may not hold good in other cases. Relaxation to such class of persons with disabilities may be considered. Wide publicity may be given to generate public awareness in this regard so as to avoid any unwarranted incident against persons with intellectual disabilities as some of the persons with intellectual disabilities may not exhibit physical disabilities.

4. The Rights of Persons with Disabilities Bill has been passed by both the Houses of Parliament which recognizes 21 categories of disabilities and the issues concerning the new categories of disabilities also need to be considered after the notification in this regard is issued. In view of this and para 3 and 3.1 above, the Department of Empowerment of Persons with Disabilities will suggest further modifications in guidelines as and when required or necessary. In such eventualities, these guidelines will be further amended or modified or expanded.

5. The above is conveyed to you in compliance of the orders of the Hon'ble Supreme Court quoted above.

6. The receipt of this letter may please be acknowledged and action taken in the matter be communicated to this Ministry.

Yours faithfully,

(V.K. Rajan)

Deputy Secretary to the Govt. of India

Tel. 2309 4376

Encl.: As above.

Copy to:-

1. All Ministries/Departments of Government of India.
2. President's Secretariat, Rashtrapati Bhawan, New Delhi.
3. Vice-President's Secretariat, New Delhi.
4. Prime Minister's Office, South Block, New Delhi.
5. Cabinet Secretariat, New Delhi.
6. Election Commission of India, New Delhi.
7. Lok Sabha Secretariat, New Delhi.
8. Rajya Sabha Secretariat, New Delhi.
9. Registrar, Supreme Court of India, New Delhi.
10. All High Courts.
11. Office of Comptroller and Auditor General of India, New Delhi.
12. The Union Public Service Commission, New Delhi.
13. Central Vigilance Commission, New Delhi.
14. NITI Aayog, Yojana Bhawan, New Delhi.
15. All attached and Subordinate Offices of the Ministry of Home Affairs.
16. 20 Spare copies.

Copy also to:-

The Secretary, Department of Empowerment of Persons with Disabilities for action in respect of para 4 above.

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ITEM NO.801

COURT NO.3

4/13
SECTION FIL(W)

SUPREME COURT OF INDIA
RECORD OF PROCEEDINGS

IA Nos. _____/2016 in Writ Petition(s) (Civil) No(s). 855/2016

SHYAM NARAYAN CHOUKSEY

Petitioner(s)

VERSUS

UNION OF INDIA

Respondent(s)

(With appln.(s) for impleadment and recall of the order dated 30.11.2016 and office report)

Date : 09/12/2016 This petition was called on for hearing today.

CORAM : HON'BLE MR. JUSTICE DIPAK MISRA
HON'BLE MR. JUSTICE AMITAVA ROY

For Petitioner(s) Mr. Abhinav Shrivastava, AOR
Mr. Rituvendra Singh, Adv.
Mr. Hameet Singh R., Adv.

For Respondent(s) Mr. Mukul Rohatgi, AG
Mr. R.K. Rathore, Ad.
Mr. B. Krishna Prasad, AOR

Mr. Siddharth Luthra, Sr. Adv. (AC)	Mr. Siddharth Luthra, Sr. Adv. (AC)
Ms. Tara Narula, Adv.	Ms. Tara Narula, Adv.
Ms. Gargi Khanna, Adv.	Ms. Gargi Khanna, Adv.
Mr. Siddhartha Mehta, Adv.	Mr. Siddhartha Mehta, Adv.
Ms. Supriya Juneja, Adv.	Ms. Supriya Juneja, Adv.
Mr. C.U. Singh, Sr. Adv.	Mr. C.U. Singh, Sr. Adv.
Mr. P.V. Dinesh, Adv.	Mr. P.V. Dinesh, Adv.
Ms. Sinha T.P., Adv.	Ms. Sinha T.P., Adv.
Mr. R. Beniwal, Adv.	Mr. R. Beniwal, Adv.
Mr. Namit Saxena, Adv.	Mr. Namit Saxena, Adv.
Mr. Biresh K., Adv.	Mr. Biresh K., Adv.
Mr. Arushi Singh, Adv.	Mr. Arushi Singh, Adv.

UPON hearing the counsel the Court made the following
ORDER

These two applications have been filed one seeking impleadment in the writ petition and the other for recall of the order dated 30.11.2016 and office report.

30.11.2016.

On being mentioned by Mr. P.V. Dinesh, learned counsel, the I.As. are taken on Board.

Registry is directed to register the I.As.

Heard Mr. C.U. Singh, learned senior counsel along with Mr. P.V. Dinesh, learned counsel for the applicants, Mr. Mukul Rohatgi, learned Attorney General for India, and Mr. Sidharth Luthra, learned senior counsel who has sought leave of the Court to assist.

The prayer in the application is for recall of our order dated 30.11.2016. When it was brought to the notice of Mr. C.U. Singh, learned senior counsel about the grounds urged, we must fairly state that Mr. Singh submitted that he will have a re-look at the grounds and will amend the same.

As far as the recall of the order is concerned, the same has to be heard on merits when the matter is finally debated upon. Be it noted, Mr. Dinesh, learned counsel for the applicant at the time of mentioning had submitted that there has to be some kind of exemption for the physically challenged persons or physically handicapped persons. Mr. Siddharth Luthra, learned senior counsel who was present in Court has referred to the Persons with Disabilities (Equal Opportunities, Protection of Rights and Full Participation) Act, 1995.

Mr. Rohatgi, learned Attorney General for India submitted that how the physically challenged or physically handicapped persons shall show respect to the National Anthem, the Central Government will issue guidelines within ten days hence. As the guidelines are going to be issued, we clarify, if a physically challenged person or physically handicapped person goes to the Cinema hall to watch a film, he need not stand up, if he is incapable to stand, but must show such conduct which is commensurate with respect for the National Anthem. When we say physically challenged or physically

handicapped persons, it means persons with disability as defined under Sections 2(i) and 2(t) of the Persons with Disabilities (Equal Opportunities, Protection of Rights and Full Participation) Act, 1995.

Another aspect needs to be cleared. When we said that the doors shall be closed, we did not mean that the doors shall be bolted as mentioned in the case of Municipal Corporation of Delhi, Delhi vs. Upkaar Tragedy Victims Association and Ors. [(2011) 14 SCC 481] but only to regulate the ingress and egress during the period while the National Anthem is played.

Let the matter be listed on the date fixed, i.e., 14.2.2017.

(Gulshan Kumar Arora)
Court Master

(H.S. Parasher)
Court Master

B. K. Prasad

Addl Govt Advocate
Supreme Court

10/12/2016

B. K. Prasad

Addl Govt Advocate
Supreme Court

10/12/2016

Vice President's Sec
President's Sec
Chief Justice's Sec
Deputy Secy to the Court
Secy to the Court

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(7/13)

No. 14/6/2016-Public
Government of India/Bharat Sarkar
Ministry of Home Affairs/Grih Mantralaya
Public Section

North Block, New Delhi-1
Dated the 06th December, 2016

To,

The Chief Secretaries of all State Governments,
The Chief Secretaries/Administrators of all Union Territories.

Subject:- Orders relating to the National Anthem of India.

Sir/Madam,

I am directed to enclose a copy of the Hon'ble Supreme Court's Order dated 30.11.2016 delivered in the Writ Petition (Civil) No. 855 of 2016 on the above subject. The Hon'ble Supreme Court in the above said Order has directed as follows:-

- (a) There shall be no commercial exploitation to give financial advantage or any kind of benefit. To elaborate, the National Anthem should not be utilized by which the person involved with it either directly or indirectly shall have any commercial benefit or any other benefit.

(b) There shall not be dramatization of the National Anthem and it should not be included as a part of any variety show. It is because when the National Anthem is sung or played it is imperative on the part of every one present to show due respect and honour. To think of a dramatized exhibition of the National Anthem is absolutely inconceivable.

(c) National Anthem or a part of it shall not be printed on any object and also never be displayed in such a manner at such places which may be disgraceful to its status and tantamount to disrespect. It is because when the National Anthem is sung, the concept of protocol associated with it has its inherent roots in National identity, National integrity and Constitutional Patriotism.

(d) All the cinema halls in India shall play the National Anthem before the feature film starts and all present in the hall are obliged to stand up to show respect to the National Anthem.

(e) Prior to the National Anthem is played or sung in the cinema hall on the screen, the entry and exit doors shall remain closed so that no one can create any kind of disturbance which will amount to disrespect to the National Anthem. After the National Anthem is played or sung, the doors can be opened.

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(f) When the National Anthem shall be played in Cinema Halls, it shall be with the National Flag on the screen.

(g) The abridge version of the National Anthem made by any one for whatever reason shall not be played or displayed.

2. The above is conveyed to you for compliance and necessary action in this regard. You are also requested to give wide publicity in the local print and electronic media so that above Order is followed in letter and spirit.

3. The receipt of this letter may please be acknowledged and action taken in the matter be communicated to this Ministry.

Encl. As above

Yours faithfully,

(V.K. Rajan)

Deputy Secretary to the Govt. of India
Tel. 2309 4376

Copy to:-

1. All Ministries/Departments of Government of India.
2. President's Secretariat, Rashtrapati Bhawan, New Delhi.
3. Vice-President's Secretariat, New Delhi.
4. Prime Minister's Office, South Block, New Delhi.
5. Cabinet Secretariat, New Delhi.
6. Election Commission of India, New Delhi.
7. Lok Sabha Secretariat, New Delhi.
8. Rajya Sabha Secretariat, New Delhi.
9. Registrar, Supreme Court of India, New Delhi.
10. All High Courts.
11. Office of Comptroller and Auditor General of India, New Delhi.
12. The Union Public Service Commission, New Delhi.
13. Central Vigilance Commission, New Delhi.
14. NITI Aayog, Yojana Bhawan, New Delhi.
15. All attached & Subordinate Offices of the Ministry of Home Affairs.
16. 20 Spare copies.

ITEM NO.7

COURT NO.3

SECTION PIL(W)

SUPREME COURT OF INDIA
RECORD OF PROCEEDINGS

Writ Petition(s) (Civil) No(s). 855/2016

SEYAM NARAYAN CHOUKSEY

Petitioner(s)

VERSUS

UNION OF INDIA
(With office report)

Respondent(s)

Date : 30/11/2016 This petition was called on for hearing today.

CORAM :

HON'BLE MR. JUSTICE DIPAK MISRA
HON'BLE MR. JUSTICE AMITAVA ROY

For Petitioner(s) Mr. Abhinav Shrivastav, Adv.
Mr. Rituvendra Singh, Adv.
Mr. Harmeet Singh Ruprah, Adv.

For Respondent(s) Mr. Mukul Rohtagi, AG
Mr. Ashok Kumar Panda, Sr. Adv.
Mr. Avijit Prasad, Adv.
Ms. Movita, Adv.
Mr. B.K. Prasad, Adv.

After the Court made the following
UPON hearing the counsel the Court made the following
O R D E R

Mr. Abhinav Shrivastav, learned counsel for
the petitioner and Mr. Mukul Rohatgi, learned Attorney General
for India along with Mr. A.K. Panda, learned senior counsel for
the Union of India.

While entertaining the writ
This Court on 28.10.2016 while entertaining the Writ
Constitution of India had
Petition under Article 32 of the Constitution of India had
noted the submissions advanced by the learned counsel for the
petitioner, made reference to the enactment, namely, Prevention
of Insults to National Honour Act, 1971. It had also taken note

of the averments in the petition.

It has been averred in the petition that sometimes National Anthem is sung in various circumstances which are not permissible and can never be countenanced in law. The emphasis is on showing requisite and necessary respect when the National Anthem is sung or played. The assertion is that it is the duty of every person to show respect when the National Anthem is played or recited or sung.

Having heard the learned counsel for the parties and awaiting the reply from the Union of India, as an interim measure, it is directed that the following directions shall be scrupulously followed:-

(a) There shall be no commercial exploitation to give financial advantage or any kind of benefit. To elaborate, the National Anthem should not be utilized by which the person involved with it either directly or indirectly shall have any commercial benefit or any other benefit.

(b) There shall not be dramatization of the National Anthem and it should not be included as a part of any variety show. It is because when the National Anthem is sung or played it is imperative on the part of every one present to show due respect and honour. To think of a dramatized exhibition of the National Anthem is absolutely inconceivable.

(c) National Anthem or a part of it shall not be printed on any object and also never be displayed in such a manner at such places which

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may be disgraceful to its status and tantamount to disrespect. It is because when the National Anthem is sung, the concept of protocol associated with it has its inherent roots in National identity, National integrity and Constitutional Patriotism.

(d) All the cinema halls in India shall play the National Anthem before the feature film starts and all present in the hall are obliged to stand up to show respect to the National Anthem.

(e) Prior to the National Anthem is played or sung in the cinema hall on the screen, the entry and exit doors shall remain closed so that no one can create any kind of disturbance which will amount to disrespect to the National Anthem. After the National Anthem is played or sung, the doors can be opened.

(f) When the National Anthem shall be played in the Cinema Halls, it shall be with the National Flag on the screen.

(g) The abridge version of the National Anthem made by any one for whatever reason shall not be played or displayed.

We have so directed as Mr. Mukul Rohtagi, learned Attorney General for India submits with all humility at his command and recommend that National Anthem has to be respected. The directions are issued, for love and respect for the motherland is reflected when one shows respect to the National

Anthem as well as to the National Flag. That apart, it would instill the feeling within one, a sense committed patriotism and nationalism.

In this regard, we may refer to clause (a) of Article 51(A), Fundamental Duties occurring in Part IVA of the Constitution. It reads as follows:

51A. Fundamental duties - It shall be the duty of every citizen of India -

(a) to abide by the Constitution and respect its ideals and institutions, the National Flag and the National Anthem.

From the aforesaid, it is clear as crystal that it is the sacred obligation of every citizen to abide by the ideals engrafted in the Constitution. And one such ideal is to show respect for the National Anthem and the National Flag. Be it the citizens stated, a time has come, the citizens of the country must realize that they live in a nation and are duty bound to show respect to National Anthem which is the symbol of the and inherent Constitutional Patriotism and inherent national quality. It does not allow any different notion or the perception of individual rights, that have individually thought of have no space. The idea is constitutionally impermissible.

Mr. Rohatgi has submitted that the Union of India shall circulate this order to the Chief Secretaries of all the States and Union Territories. That apart, Mr. Rohatgi submits that the order shall be shown in the electronic Media and

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published in the print media so that every one knows that such an order has been passed and follow the same in letter and spirit.

This order shall be given effect to within a period of
10 days.

Let the matter be listed on 14th February, 2017 for further hearing.

(Madhu Bala)
Court Master

(H.S. Parashar)
Court Master

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23/11/18

Sh. Anil
27/11/18

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Name of the Government of India's Ministries/Deptt.	
1.	Department of Space, New BEL Bangalore-560094
2.	Department of Ayush, New Delhi-110001 TNA
3.	Department of Economic Affairs, North Block, New Delhi-110001
4.	Ministry of Housing & Urban Poverty Affairs, Nirman Bhawan, New Delhi
5.	Department of Secondary and Higher Education, Shastri Bhawan, New Delhi
6.	Department of Consumer Affairs, Krishi Bhawan, New Delhi
7.	Department of Fertilizer, Shastri Bhawan, New Delhi
8.	Ministry of Corporate Affairs, Shastri Bhawan, New Delhi
9.	Department of Personnel & Training, North Block, New Delhi
10.	Ministry of Agricultural Research and Education, Krishi Bhawan, New Delhi
11.	Department of Agriculture and Cooperation, Krishi Bhawan, New Delhi
12.	Ministry of Coal, Shastri Bhawan, New Delhi
13.	Department of Food & Public Distribution, Krishi Bhawan, New Delhi
14.	Food Processing, Panchsheel Bhawan, August Kranti Marg, New Delhi
15.	Ministry of Mines, Shastri Bhawan, New Delhi
16.	Ministry of Home Affairs, North Block, New Delhi
17.	Department of Rural Development, Krishi Bhawan, New Delhi
18.	Ministry of Tribal Affairs, Shastri Bhawan, New Delhi
19.	Ministry of Water Resources, CGO, New Delhi S.S. Bhawan N.D.
20.	Department of Post, Dak Bhawan, Sansad Marg, New Delhi
21.	Department of Telecommunication, 347-D, Dak Bhawan, Sansad Marg, New Delhi
22.	Ministry of New & Renewable Sources of Enegy, CGO Complex, Block-14, New Delhi-3
23.	Ministry of Civil Aviation, Rajiv Gandhi Bhawan, Safdarjung Airport, New Delhi-3
24.	Department of Atomic Energy, Anu Shakti Bhawan, Chhatrapati Shivaji Maharaj Marg, Mumbai-400039
25.	Ministry of Tourism, Transport Bhawan, New Delhi
26.	Ministry of Environment & Forests, Paryavaran Bhawan, CGO Complex, New Delhi-3
27.	Department of Animal Husbandry, Dairying and Fisheries, Krishi Bhawan, New Delhi
28.	Department of Supply, 'C' Wing, Nirman Bhawan, New Delhi
29.	Ministry of Petroleum & Natural Gas, Shastri Bhawan, New Delhi
30.	Department of Shipping Transport, Parivahan Bhawan, New Delhi
31.	Ministry of Earth Science, CGO Complex, Block No. 12, New Delhi
32.	Department of Administration Reforms & Public Grievances, Sardar Patel Bhawan, New Delhi
33.	Department of Bio Technology, CGO Complex, Block No. 2, New Delhi
34.	Department of Financial Services, Jeevan Deep Building, Sansad Marg, New Delhi
35.	Election Commission of India, Nirvachan Sadan, Ashok Road, New Delhi
36.	O/o Comptroller & Auditor General of India, 10, Bahadur Shah Marg, New Delhi
37.	Department of Heavy Industry, Udyog Bhawan, New Delhi
38.	Department of Land Processing, NBO Building, 'G' Wing, Nirman Bhawan, New Delhi
39.	Cabinet Secretariat, Rashtrapati Bhawan, New Delhi
40.	Department of Women & Child Development, Shastri Bhawan, New Delhi
41.	Ministry of Youth Affairs & Sports, Shastri Bhawan, New Delhi
42.	Niti Ayog, Yojana Bhawan, New Delhi
43.	Ministry of Defence, Room No.33, 'A' Wing, Sena Bhawan, New Delhi
44.	Department of Chemical & Petro Chemical, Shastri Bhawan, New Delhi
45.	Department of Revenue, North Block, New Delhi
46.	Railway Board, Rail Bhawan, New Delhi

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47.	Ministry of Small Scale Industries, Udyog Bhawan, New Delhi, MSME, Udyog Bhawan, New Delhi
48.	Department of Public Enterprises, Block-14, CGO Complex, New Delhi
49.	Ministry of Textiles, Ministry of Industry, Udyog Bhawan, New Delhi
50.	Ministry of Commerce, Udyog Bhawan, New Delhi
51.	Department of Scientific & Industrial Research, Technology Bhawan, New Mehrauli Road, New Delhi-15
52.	Ministry of External Affairs, South Block, New Delhi
53.	Ministry of Power, Shram Shakti Bhawan, New Delhi
54.	Department of Legal Affairs, Shastri Bhawan, New Delhi
55.	Department of Legislative, Shastri Bhawan, New Delhi
56.	Ministry of Development of North Eastern Region, Vigyan Bhawan, New Delhi
57.	Department of Expenditure, North Block, New Delhi
58.	Ministry of Urban Development, Nirman Bhawan, New Delhi
59.	Ministry of Labour & Employment, Shram Shakti Bhawan, New Delhi
60.	Union Public Service Commission, Dhoolpur House, Shahjahan Road, New Delhi
61.	Ministry of Parliamentary Affairs, 87, Sansad Marg, New Delhi
62.	Ministry of Cultural, Shastri Bhawan, New Delhi
63.	Ministry of Statistics & Programme Implementation, Sardar Patel Bhawan, New Delhi
64.	Ministry of Social Justice & Empowerment, Shastri Bhawan, New Delhi
65.	Ministry of Information & Broadcasting, Shastri Bhawan, New Delhi
66.	Ministry of Health & Family Welfare, Nirman Bhawan, New Delhi
67.	Department of Road Transport & Highways, Parivahan Bhawan, New Delhi
68.	Department of Disinvestment, Block-II & 14-A, CGO Complex, Lodi Road, New Delhi
69.	Ministry of Panchayati Raj, Sardar Patel Bhawan, New Delhi
70.	Ministry of Minority Affairs, Paryavaran Bhawan, New Delhi
71.	Minority Commission, Lok Nayak Bhawan, New Delhi
72.	Ministry of Steel, Udyog Bhawan, New Delhi
73.	Department of Space, Lok Nayak Bhawan, New Delhi
74.	Department of Atomic Energy, South Block, New Delhi